

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Engineering and Construction Management Department

AGENDA DATE: October 26, 2010

CONTACT PERSON/PHONE: R. Alan Shubert, P.E. - ext. 4423

DISTRICT AFFECTED: 2

SUBJECT:

An Ordinance authorizing the City Manager of the City of El Paso to sign a Special Warranty Deed to convey to the State of Texas approximately 0.614 acre of land in the City of El Paso located in Sections 17, Block 81, Township 2, Texas and Pacific Railway Company Surveys for use as part of the State of Texas Spur 601 controlled access highway construction project.

BACKGROUND / DISCUSSION:

The City of El Paso has committed to working with the State of Texas acting through the Texas Department of Transportation to expedite the construction on Spur 601. The City owns several parcels of property required for the construction of the roadway. This Ordinance authorizes the City Manager to sign a Special Warranty Deed for land presently within the Animal Shelter facility. In conjunction with the transfer of this land, the City Council is also being asked to approve a fee waiver agreement with TxDOT and, by resolution, a Multiple Use Agreement with the State of Texas that provides that the State will reconstruct the existing parking lot at the Animal Shelter at no cost to the City.

PRIOR COUNCIL ACTION:

March 6, 2010: Council approved an ordinance authorizing the transfer of 3.3054 Acres of land along and adjacent to Fred Wilson Road and Marshall Road held by the El Paso Water Utilities to this project.

June 15, 2010: Council approved an ordinance authorizing the transfer of 31.118 acres of land upon which portions of Fred Wilson Road was located for this project.

AMOUNT AND SOURCE OF FUNDING:


No funding is required to transfer this property.

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: 
(Example: if RCA is initiated by Purchasing, client department should sign also Information copy to appropriate Deputy City Manager)

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE CITY MANAGER OF THE CITY OF EL PASO TO SIGN A SPECIAL WARRANTY DEED AND ANY OTHER DOCUMENTS NECESSARY TO CONVEY TO THE STATE OF TEXAS APPROXIMATELY 0.614 ACRE LOCATED IN SECTION 17, BLOCK 81, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, EL PASO COUNTY, TEXAS, ADJACENT TO FRED WILSON ROAD, FOR THE STATE OF TEXAS SPUR 601 CONTROLLED ACCESS HIGHWAY CONSTRUCTION PROJECT.

WHEREAS, the Texas Transportation Commission has been authorized under the Texas Transportation Code Chapters 203, 224, and 361 to purchase land and such other property rights (including requesting that counties and municipalities acquire highway right of way) deemed necessary and convenient to a state highway or turnpike project to be constructed, reconstructed, maintained, widened, straightened, or extended, or to accomplish any other purpose related to the location, construction improvement, maintenance, beautification, preservation, or operation of a state highway or turnpike project, and including the acquisition of such other property rights deemed necessary for the purposes of operating a designated state highway or turnpike project, with control of access as necessary to facilitate the flow of traffic and promote the public safety and welfare on both non-controlled access facilities, as well as facilitating the construction, maintenance and operation of designated controlled access highways and turnpike projects; and

WHEREAS, the Texas Department of Transportation (TxDOT) has requested that the City of El Paso convey approximately 0.614 acre of land located in Section 17, Block 81, Township 2, Texas and Pacific Railway Company Surveys, said parcel to be included in the State of Texas Spur 601 controlled access highway construction project; and

WHEREAS, the City of El Paso staff has recommended that the identified property, including the improvements thereon, be conveyed to the State of Texas for use in the Spur 601 highway construction project; and

WHEREAS, the State of Texas is a governmental entity that has the power of eminent domain; and

WHEREAS, Section 272.001 of the Texas Local Government Code provides that a political subdivision of the state may convey real property interest to a governmental entity that has the power of eminent domain without the statutory required notice and bidding requirements; and

WHEREAS, The State of Texas has agreed to construct and maintain parking lots within the right of way for Spur 601 that will serve City of El Paso facilities.

WHEREAS, The State of Texas will maintain Spur 601 and said highway will provide a valuable benefit to the City of El Paso; and

WHEREAS, the El Paso City Council finds that it is in the public interest to convey the identified property to the State of Texas.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager is hereby authorized to execute (1) a Special Warranty Deed in form and substance approved by the City Attorney or his designee and (2) and any other necessary documents, such as, but not limited to a Waiver of Fee Agreement, as required for the transfer of the land, conveying to the State of Texas, acting through its Texas Department of Transportation, the following indentified real property, including the improvements thereon said parcel, to be included in the TxDOT Spur 601 controlled access highway construction project:

Approximately 0.614 acre of land that is a portion of Section 17, Block 81, Township 2, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, and more particularly described in Exhibit "A", attached.

PASSED AND APPROVED this _____ day of _____, 2010.


THE CITY OF EL PASO

John F. Cook, Mayor

ATTEST:

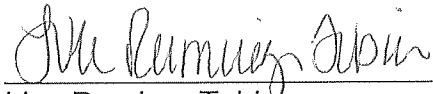
Richarda Duffy Momsen, City Clerk

APPROVED AS TO FORM:

A handwritten signature in cursive script, reading "Mark Shoesmith", written over a horizontal line.

Mark Shoesmith
Assistant City Attorney

APPROVED AS TO CONTENT:

A handwritten signature in cursive script, reading "Liza Ramirez-Tobias", written over a horizontal line.

Liza Ramirez-Tobias
Capital Assets Manager

El Paso and the general public in accordance with the terms herein.

Property:

Being approximately 0.614 acre of land known as Part 4 of Parcel 4 along and adjacent to Fred Wilson Road and being a portion of Section 17, Block 81, Township 2, Texas and Pacific Railway Company Surveys, City of El Paso, El Paso County, Texas, and more particularly described by metes and bounds in Exhibit "A", attached hereto and incorporated herein by this reference for all purposes, hereafter, the "Property".

Restrictions and Reservations from and Exceptions to Conveyance:

1. This conveyance of the Property is made on an "AS IS" basis with all faults and with any and all latent and patent defects and with no express or implied warranty being made for a particular use or purpose. Grantee shall be responsible, at its own cost, to conduct any necessary archeological or environmental surveys or studies. Any remediation required by Grantee for or due to the transportation facility to be constructed on the Property shall be at Grantee's sole cost. By acceptance hereof, Grantee acknowledges that Grantee has not relied upon any covenant, representation or warranty, oral or written, express or implied by Grantor or by any representative of grantor with respect to the Property and that neither Grantor nor any representative of Grantor has made any covenant, representation or warranty, oral or written, express or implied of merchantability, marketability, physical condition, presence of hazardous materials, valuation, utility, fitness for a particular purpose, or otherwise. Grantee acknowledges and agrees that Grantee has inspected the Property and the physical and topographic condition of the Property and accepts the Property "AS IS" in its existing physical and topographic condition and that Grantee is relying on Grantee's own examination of the Property.
2. This conveyance is subject to (1) all easements and rights-of-way [including but not limited to those granted to Contel Cellular of the Southwest, Inc. referenced in an Assignment and Assumption Agreement recorded in Volume 4279, page 729, Real Property Records of El Paso County, Texas, and any and all assignments and amendments thereto], leases, agreements, licenses, prescriptive rights or other interests which affect the Property, whether of record or not, including, but not limited to the continued rights of existing utilities, if any, and any required adjustment of such utilities which shall be at the cost to the Grantee and at no cost to the Grantor, and (2) all presently recorded instruments affecting the Property, (3) any matter which would be disclosed by title examination, survey, investigation or inquiry, including but not limited to the rights of parties in possession and (4) Grantor's right of entry over the Property to gain access to Grantor's property that is contiguous to the Property conveyed by this special warranty deed.
3. Grantee, its successors or assigns shall not discard, place or store any radioactive material or other material which would contaminate or otherwise damage the

groundwater supply or sources of the City of El Paso.

4. Grantor hereby for itself, its successors and assigns forever, reserves all water in and under, and that may be produced from or attributable to the Property. If the water estate is subject to existing production or an existing license, this reservation includes the production, the license and all benefits from it. Grantor hereby waives any and all rights of ingress and egress to the surface of the above described Property for the purpose of exploring, developing, or drilling for water; provided, however, that operations for exploration or recovery of water shall be permissible so long as all surface operations in connection therewith are located at a point outside the above described property and upon the condition that none of such operations shall be conducted so near the surface of said land or in a manner as to interfere with the intended use thereof or in any way interfere with, jeopardize, or endanger the facilities of the Texas Department of Transportation or create a hazard to the public users thereof, it being understood that the Grantor may, subject to the limitations stated heretofore, explore, develop, drill and recover water below the surface of the Property.

5. Grantor reserves all of the oil, gas and sulphur in and under the Property herein conveyed but waives all rights of ingress and egress to the surface thereof for the purpose of exploring, developing, mining or drilling for same.

Conveyance: Grantor, for the consideration and subject to the restrictions, reservations from and exceptions to conveyance and warranty, grants and conveys to Grantee the Property, together with all and singular the rights and appurtenances thereto in any wise belonging, to have and hold it to Grantee, Grantee's successors or assigns forever. Grantor binds Grantor and Grantor's successors to warrant and forever defend all and singular the Property to Grantee and Grantee's successors and assigns against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to the reservations from and exceptions to conveyance and warranty, when the claim is by, through, or under Grantor but not otherwise.

GRANTOR: THE CITY OF EL PASO
A Municipal Corporation

Joyce Wilson, City Manager

ACCEPTANCE:

This Special Warranty Deed is hereby accepted by Grantee under the terms, covenants, obligations and conditions stated hereinabove:

GRANTEE: The State of Texas

By: _____
(print name) _____

(title)_____

ACKNOWLEDGMENTS

STATE OF TEXAS }
 }
COUNTY OF EL PASO }

This instrument was acknowledged before me on the _____ day of _____, 2010, by Joyce Wilson, as the City Manager of the City of El Paso, a Texas home-ruled municipal corporation on behalf of said corporation as GRANTOR.

Notary Public, State of Texas

My Commission Expires: _____

STATE OF TEXAS }
 }
COUNTY OF _____ }

This instrument was acknowledged before me on the _____ day of _____, 2010, by _____, the _____ of _____.

Notary Public, State of Texas

My Commission Expires: _____

EXHIBIT A

County: El Paso
Parcel No.: 4
Highway: State Spur 601
Limits: From: Sta. 118+03.87
To: Sta. 495+95.22
RCSJ: 1046-03-002
CCSJ: 1046-03-001
OWNER: City of El Paso, Texas

CITY CLERK DEPT.
09 FEB - 7 AM 10:36

PROPERTY DESCRIPTION FOR PARCEL 4
(TOTAL ACREAGE 95.646 ACRES)

PARCEL 4-PART 4 (0.614 ACRE)

DESCRIPTION OF A 0.614 ACRE TRACT OF LAND LOCATED IN SECTION 17, BLOCK 81, TOWNSHIP 2, TEXAS AND PACIFIC RAILWAY COMPANY SURVEYS, EL PASO COUNTY, TEXAS, BEING A PORTION OF A REMAINDER OF A CALLED 20.13 ACRE TRACT OF LAND DESCRIBED IN AN UN-RECORDED RESOLUTION TO THE CITY OF EL PASO, DATED JUNE 21, 1957, BEING FURTHER DESCRIBED AS A CALLED 4.747 ACRE TRACT OF LAND, ORDINANCE NO. 15477, EL PASO CITY/COUNTY HEALTH AND ENVIRONMENTAL DISTRICT ANIMAL SHELTER FACILITY, DATED JULY 1, 2003, SAID 0.614 ACRE TRACT, AS SHOWN ON A RIGHT-OF-WAY SKETCH PREPARED BY SAM, INC. FOR THIS PARCEL, BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a 5/8-inch iron rod with a "SAM Inc" aluminum cap set in the proposed north right-of-way line of State Spur 601, being 105.82 feet left of State Spur 601 Survey Baseline station 144+03.11, same being in the west line of said 4.747 acre tract and the east line of a called 4.00 acre tract of land, described in the deed to Humane Society of El Paso, Inc., as recorded in Document No. 20040060034, of the Official Public Records of Real Property El Paso County, Texas, same being the northwest corner and the **POINT OF BEGINNING** of the tract described herein, from which a 5/8-inch iron rod with a cap found stamped SLI, for the common north corner of said 4.00 acre tract and said 4.747 acre tract bears N 02° 15' 43" E, a distance of 459.60 feet;

THENCE with said proposed north right-of-way line, crossing through the interior of said 4.747 acre tract, the following two (2) courses and distances:

1. with the arc of a curve to the right, a distance of 73.52 feet, through a central angle of 01° 27' 35", having a radius of 2885.88 feet, and whose chord bears S 85° 47' 35" E, a distance of 73.52 feet to a 5/8-inch iron rod with a "SAM Inc" aluminum cap set, for a point of tangency, and
2. S 85° 03' 47" E, a distance of 322.57 feet to a 5/8-inch iron rod with a "SAM Inc" aluminum cap set 86.02 feet left of State Spur 601 Baseline station 147+98.62, in the east line of said 4.747 acre tract, same being the west line of a remainder of a called 7.0 acre tract of land, described in an un-recorded Joint Resolution of the Public Service Board and the City of El Paso from Jurisdiction of the PSB to the City of El Paso for use by Sun Metro Mass Transit, Dated November 11, 1998;

THENCE leaving said proposed north right-of-way line, with the common line of said 4.747 acre tract and said 7.0 acre tract, S 01° 54' 58" W, a distance of 49.38 feet to a 1/2-inch iron rod with a "SAM Inc." plastic cap set for the south common corner of said 4.747 acre tract and said 7.0 acre tract, same being in the existing north right-of-way line of Fred Wilson Avenue, a varying width right-of-way;

THENCE with said existing north right-of-way line, S 89° 40' 25" W, a distance of 396.40 feet to a 1/2-inch iron rod found for the southwest corner of said 4.747 acre tract, same being in the east line of a called 0.3917 acre general easement, described in the deed to Humane Society of El Paso, as recorded in Document No. 20040060034, of the Official Public Records of Real Property El Paso County, Texas, from which a 1/2-inch iron rod found for a southeast corner of said 0.3917 acre general easement, bears S 02° 15' 43" W, a distance of 10.04 feet;

THENCE leaving said existing north right-of-way line, with the common line of said 0.3917 general easement tract, N 02° 15' 43" E, passing at a distance of 40.09 feet a 1/2-inch iron rod found for the southeast corner of said 4.00 acre tract, continuing in all a total distance of 84.83 feet to the **POINT OF BEGINNING**, and containing 0.614 acres of land, more or less.

This property description is accompanied by a separate plat of even date.

Bearings and Coordinates are based on the Texas State Plane Coordinate System, NAD 83, Central Zone and adjusted to surface using a Combined Scale Factor of 1.00023100 as surveyed from NGS Triangulation Station ELP A (PID# AB8586) and NGS Benchmark Disk X 1118 (PID# CE0141). Bearing and Distance between ELP A AND X 1118 based on published Grid Coordinates is S 85° 19' 04" E, 28,662.24'.

THE STATE OF TEXAS
COUNTY OF TRAVIS

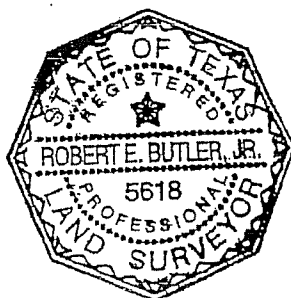
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KNOW ALL MEN BY THESE PRESENTS:

That I, Robert E. Butler, Jr., a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Austin, Travis County, Texas this the 29th day of June, 2007 A.D.

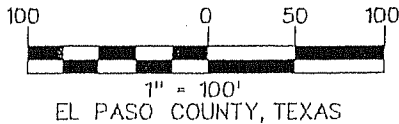
SURVEYING AND MAPPING, Inc.
5508 West Highway 290, Building B
Austin, Texas 78735



Robert E. Butler, Jr.
Registered Professional Land Surveyor
No. 5618 - State of Texas

CITY CLERK DEPT.
06 FEB - 7, AM 10:37

STATE SPUR 601 SURVEY
 BASELINE CURVE DATA
 P1Sta 141+35.18
 D= 7' 15" 00.46" (RT)
 L= 543.76'
 T= 272.24'
 R= 4,297.18'
 PC Sta 138+62.94
 PT Sta 144+06.70



LEGEND

- TYPE I CONCRETE MONUMENT FOUND
- TYPE II CONCRETE MONUMENT FOUND
- UNLESS NOTED
- ⊗ TYPE II CONCRETE MONUMENT SET
- 1/2" PIPE FOUND UNLESS NOTED
- 5/8" IRON ROD W/SAM INC. ALUMINUM
- CAP SET UNLESS NOTED
- 1/2" IRON ROD FOUND UNLESS NOTED
- FENCE POST FOUND UNLESS NOTED
- CALCULATED POINT UNLESS NOTED
- 60 D NAIL FOUND UNLESS NOTED
- 1/2" IRON ROD W/SAM INC. PLASTIC
- CAP SET UNLESS NOTED
- 5/8" IRON ROD W/SAM INC. ALUMINUM
- CAP SET STAMPED "ADL" UNLESS NOTED
- PROPERTY LINE
- CENTER LINE
- () RECORD INFORMATION
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCING
- P.O.R. POINT OF REFERENCE
- ADL ACCESS DENIAL LINE
- IRF IRON ROD FOUND
- IPF IRON PIPE FOUND
- ACCESS DENIAL LINE
- D.R.E.C.TX. DEED RECORDS EL PASO COUNTY, TEXAS
- P.R.E.C.TX. PLAT RECORDS EL PASO COUNTY, TEXAS
- O.P.R.E.C.TX. OFFICIAL PUBLIC RECORDS EL PASO COUNTY, TEXAS
- O.P.R.R.P.E.C.TX. OFFICIAL PUBLIC RECORDS OF REAL PROPERTY EL PASO COUNTY, TEXAS

CALLLED 4.00 ACRES
 HUMANE SOCIETY OF EL PASO, INC.
 DOC. NO. 20040060034
 O.P.R.R.P.E.C.TX.
 APRIL 12, 2004

P.O.R.
 5/8" IRF
 W/CAP (SLI)

20' ACCESS EASEMENT
 CROWN CASTLE GT. COMPANY LLC
 DOC. NO. 20020050506
 O.P.R.R.P.E.C.TX.

SECTION 17
 BLOCK 81, TSP 2

REMAINDER OF A
 CALLLED 20.13 ACRES
 CITY OF EL PASO
 JUNE 21, 1957
 FURTHER DESCRIBED AS
 A CALLLED 4.747 ACRES
 ORDINANCE NO. 15477
 EL PASO CITY/COUNTY HEALTH AND
 ENVIRONMENTAL DISTRICT
 ANIMAL SHELTER FACILITY
 JULY 1, 2003

PROPOSED
 R.O.W. LINE

P.O.B.
 144+03.11
 105.82' LT

PARKING AREA
 144+76.49
 102.91' LT

S85° 03' 47" E 322.57'

PART 4
 0.514 ACRE

S89° 40' 25" W 396.40'

S 88° 03' 50" E 1,381.57'

FRED WILSON AVE.
 (VARYING WIDTH R.O.W.)

(APPROXIMATE LOCATION OF SECTION LINE)

REMAINDER OF A
 CALLLED 9.27 ACRES
 CITY OF EL PASO
 JUNE 21, 1957

DELTA-01° 27' 35" R-2885.88'
 L-73.52' T-36.76'
 CB-S85° 47' 35" E C-73.52'

REMAINDER OF A
 CALLLED 20.13 ACRES
 CITY OF EL PASO
 JUNE 21, 1957
 FURTHER DESCRIBED AS
 A CALLLED 7.0 ACRES

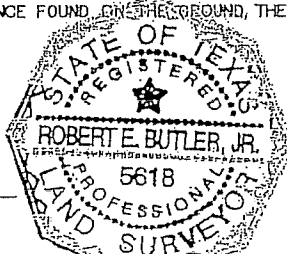
JOINT RESOLUTION OF THE
 PUBLIC SERVICE BOARD AND THE CITY
 OF EL PASO FROM JURISDICTION OF THE
 PSB TO THE CITY OF EL PASO FOR USE BY
 SUN METRO MASS TRANSIT
 NOVEMBER 11TH, 1998

NOTES:

1. RECORD INFORMATION ON THIS DRAWING IS BASED ON A PUBLIC RECORDS SEARCH BY THE SURVEYOR AND MAY NOT INCLUDE ALL EASEMENTS OR INSTRUMENTS PERTAINING TO THIS PROPERTY.
2. BEARINGS AND COORDINATES ARE BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, CENTRAL ZONE AND ADJUSTED TO SURFACE USING A COMBINED SCALE FACTOR OF 1.00023100 AS SURVEYED FROM NGS TRIANGULATION STATION ELP A (PID# A88586) AND NGS BENCHMARK DISK X 1118 (PID# CE0141). BEARING AND DISTANCE BETWEEN ELP A AND X 1118 BASED ON PUBLISHED GRID COORDINATES IS S85° 19' 04" E, 28,662.24'.
3. IMPROVEMENTS SHOWN HEREON ARE BASED UPON TXDOT AERIAL SURVEY DIGITAL FILES SUPPLEMENTED BY ON-THE-GROUND SURVEY BY SAM, INC. AND/OR LANDTECH. THERE MAY BE ADDITIONAL IMPROVEMENTS THAT ARE NOT SHOWN.
4. VISIBLE UTILITIES SHOWN HEREON ARE BASED UPON VISIBLE EVIDENCE FOUND ON-THE-GROUND. THERE MAY BE ADDITIONAL UNDERGROUND UTILITIES THAT ARE NOT SHOWN.
5. PROPERTY DESCRIPTION OF EVEN DATE ACCOMPANIES THIS PLAT. THEREBY CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION, AND THAT THIS PLAT IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

ROBERT E. BUTLER, JR.
 REGISTERED PROFESSIONAL LAND SURVEYOR
 NO. 5618, STATE OF TEXAS

06/29/07
 DATE



L1
 S01° 54' 58" W
 49.38'
 L2
 S02° 15' 43" W
 10.04'
 L3
 N02° 15' 43" E
 84.83'

11 FEB -7 AM 10:37

PAGE 03 OF 03
 REF. FIELD NOTE NO. 4460



5508 West Highway 290
 Building B
 Austin, Texas 78735
 (512) 447-0575
 Fax: (512) 326-3029

RIGHT-OF-WAY SKETCH
 SHOWING PROPERTY OF
 CITY OF EL PASO
 EL PASO COUNTY
 RCSJ NO. 1046-03-002